



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp ref: RP/14/0283

Re 14 Robertsons Gait (0/2), Paisley, PA2 6DN, being the subjects registered in the Land Register of Scotland under title number REN117733 ('the Property')

The Parties:-

Miss Kirsteen Watkins and Mr Stuart Wyper, 14 Robertsons Gait (0/2), Paisley, PA2 6DN ('The Tenants')

Mr Alexander Watt and Mr Neil Watt, c/o Bensons Estate Agents, 4 Stuart Street, The Village, East Kilbride, G74 4NG ('The Landlords')

NOTICE TO ALEXANDER WATT AND NEIL WATT ("the Landlords")

Whereas in terms of their decision dated 20th May 2015 the Private Rented Housing Committee determined that the landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and, in particular, that installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the following

- 1. Remedial works are to be undertaken to the walls and floor of the bathroom and the skirting in the bedroom where these have been damaged by dampness.**
- 2. The Landlords are to carry out such works to ensure that the shower can be operated without causing damage to the walls and floor of the bathroom, the skirting in the bedroom and the hall carpet.**
- 3. The extractor fan is to be checked and repaired or renewed if it found not to be in efficient working order.**

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of twenty eight days from the date of service of this Notice.

A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page(s) are executed by Martin McAllister, solicitor, chairperson of the Private Rented Housing Committee at Saltcoats on 20th May 2015 before Alistair Neil Green, 51 Hamilton Street, Saltcoats.

M. MCALLISTER

A. GREEN

Chairman

Witness



Determination by Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

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Mr Alexander Watt and Mr Neil Watt, c/o Bensons Estate Agents, 4 Stuart Street, The Village, East Kilbride, G74 4NG ('The Landlords')

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of The Housing (Scotland) Act 2006 ("the 2006 Act") in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act and made a repairing standard enforcement order in terms of Section 24(2) of the said Act.

Background

- 1. By application received by the Private Rented Housing Panel on 5th December 2014 the Tenants applied for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act.**
- 2. The application by the Tenants stated that they considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. It was contended that that the installations in the Property for the supply of water, gas and electricity and for sanitation,**

space heating and heating water are not in a reasonable state of repair and in proper working order and that the fixtures, fittings and appliances provided by landlord under the tenancy are in a reasonable state of repair and in proper working order.

In particular the application stated that:-

- 2.1** The fridge does not work.
- 2.2** The incorrect fitting of the shower and bath causes water damage whenever used. It stated that the wall of the bathroom is only part tiled and becomes water damaged in normal usage. It stated that there is mould on the bathroom wall, the seal of the bath and at the corner of the bath at the floor. It stated that normal usage of the shower causes the hall carpet to get wet and that the skirting board in the adjoining bedroom is mouldy. In a letter dated 7th November the Tenants stated that the issues with the shower has restricted their use of the shower and also increased their heating costs in an attempt to alleviate the dampness.
- 3.** The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee. The Committee members are Martin McAllister (Chairperson), George Campbell (Surveyor Member) and Christopher Harvey (Housing Member).
- 4.** The Private Rented Housing Committee served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 31st December 2014.
- 5.** The Committee attended at the Property on 12th May 2015 for an inspection. Miss Watkins and Mr Wyper were in attendance along with their representative Kevin Montgomerie of Renfrewshire Citizens Advice Bureau. The Property is a ground floor flat in a purpose built block of flats which had been constructed around ten years ago. At the outset of the Inspection the Tenants advised that the matter of the fridge was no longer an issue. They said that they had purchased their own fridge and that the Landlords' agents had removed the existing fridge. The Committee found the following on inspection :
 - 5.1** The bathroom is small and has no window. It has an extractor fan which seems to be operating.
The bath is installed hard on to two walls of the bathroom.
The walls of the bathroom appear to have been constructed from plasterboard. There is a tiled area above the bath consisting of a row of four standard sized tiles.
The shower was operated and it was observed that water splashed onto the bathroom floor.
There was extensive black staining on the two walls above the bath and the seal between the bath and the tiling appeared to be ineffective.
The floor of the bathroom shows signs of dampness.

The skirting on the wall of the bedroom adjoining the bedroom shows signs of damp staining.

6. Following the inspection of the Property the Private Rented Housing Committee held a Hearing at Europa Building, 450 Argyle Street, Glasgow, G2 8LH.

The Tenants and Mr Kevin Montgomerie were present. Neither the Landlords nor their agents were present. Evidence was provided by the Tenants. The Tenants confirmed that the only outstanding issue is the matter of the shower and bath.

7. Summary of the issues

Sections 13(1), (c) of The Housing (Scotland) Act 2006 provides that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water be in a reasonable state of repair and in proper working order. The specific issue to be addressed is as detailed in the application.

8. The Hearing

The Tenants said that they had frequently reported the fault with the shower to the Landlords' agents but that no action had been taken. They also said that the agents had carried out two inspections since the commencement of the Tenancy, had seen the defects in the bathroom and had taken photographs.

Miss Watkins said that when the shower is operated water splashes onto the untiled wall and bathroom floor. She also said that the hall carpet gets wet.

Miss Watkins said that, although the extractor fan operates, she is not sure how effectively it removes steam and moisture from the bathroom. She said that, on one occasion, when she had been running a bath the smoke detector in the hall had gone off when the bathroom door had been opened. She said that the bathroom had been full of steam even though the extractor fan had been running.

9. Findings in fact

The Committee found that the operation of the shower is such that it causes water to splash on the walls and floor of the bathroom causing dampness and damage to the walls and floor of the bathroom and also the skirting of the adjoining bedroom. It also found that the hall carpet gets wet when the shower is used. The Committee also found that the extractor fan is not operating effectively in removing moisture from the bathroom.

10.Reasons

The inspection of the Property assisted the Committee in arriving at its findings in fact. The Committee accepted the evidence of the Tenants. It seemed clear to the Committee that the shower cannot be effective if it is causing dampness in the Property. The Committee noted that in the Inspection it found that the extractor fan was operating but it accepted Miss Watkins' evidence that the extractor does not function well in removing moisture from the bathroom and her evidence that the hall carpet gets wet when the shower is in use. The Committee also came to the view that the ineffective shower had caused damage to the fabric of the Property.

11.Decision

The committee had to determine whether or not there are any of its findings in fact that constituted a failure by the landlord to ensure that the property meets the repairing standard in terms of the duty imposed by Section 14 (1) (b) of the Act.

The Committee accordingly determined that the Landlords have not complied with the duties imposed by Section 13(1)(c) of the Act and determined that a repairing standard enforcement order be made in the following terms:

- 1. Remedial works are to be undertaken to the walls and floor of the bathroom and the skirting in the bedroom where these have been damaged by dampness.**
- 2. The Landlords are to carry out such works to ensure that the shower can be operated without causing damage to the walls and floor of the bathroom, the skirting in the bedroom and the hall carpet.**
- 3. The extractor fan is to be checked and repaired or renewed if it is found not to be in efficient working order.**

The Landlords are required to carry out the work within twenty eight days of intimation of the repairing standard enforcement order.

Right of Appeal

A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the

appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

M. MCALLISTER

Signed .:

Date 20th May 2015

Chairperson